

EXHIBIT H

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: PROCESSED EGG PRODUCTS: MDL NO. 2002
ANTITRUST LITIGATION 08-MDL-02002

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PHILADELPHIA, PA

JUNE 5, 2018
DAY TWENTY-ONE

BEFORE: THE HONORABLE GENE E.K. PRATTER, J.

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TRIAL TRANSCRIPT

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KATHLEEN FELDMAN, CSR, CRR, RPR, CM
Official Court Reporter
Room 1234 - U.S. Courthouse
601 Market Street
Philadelphia, PA 19106
(215) 779-5578

1 came true for Sparboe. And Sparboe, today, is a member of the
2 UEP Certified Program.

3 Backfilling. I'll just touch upon this very
4 quickly. Again, this was recommended by Jeff Armstrong,
5 Dr. Armstrong, head of the Scientific Advisory Committee.

6 He thought the Scientific Advisory Committee was
7 extremely concerned about the industry's current practice of
8 backfilling. There was potential for disease. There was
9 potential for pecking -- pecking order and cannibalism by
10 introducing new hens. And they recommended that the animal
11 welfare program include a ban on backfilling. It was all
12 based on science.

13 The final question you have to answer, the final
14 question you have to answer under this verdict form is whether
15 you unanimously find, by preponderance of the evidence, that
16 conspiracy injured the Direct Purchaser Plaintiff Class.

17 You heard that Walmart's a member of this Class.
18 Are they injured? They've asked for this. They wanted this.
19 Demanded this. Walmart, again, one of the largest companies
20 in the world.

21 Not only did they want the Certified eggs, they were
22 a champion of the Certified Program very early on. There's a
23 piece of evidence that I'm not sure whether we focused on
24 enough during the trial.

25 Beth Schnell, again, the president of Sparboe,

1 around the time that they're getting out of the UEP, the UEP
2 Certified Program, she goes down to Arkansas and visits with
3 the egg buyer at Walmart, and she's trying to sell them. Hey,
4 we're going to do an alternative program that we think is just
5 as good as the Certified Program, except we don't have the
6 100% rule, and we'd like to sell you eggs.

7 So she went down there to talk. And she reported
8 back. She writes an e-mail that she reports back, an e-mail
9 that ultimately gets forwarded to Terry Baker, one of the
10 witnesses here, at Michael Foods.

11 And what does she say about Walmart's commitment to
12 the Certified Program back in 2005 in her report? She says,
13 Gary Pickett, the category manager at Walmart, routinely
14 referred to Walmart's commitment to the UEP Program. Clearly
15 Walmart is a giant in egg sales. Gary clearly understands his
16 power -- his power to influence the industry participation in
17 the ACC program, the Certified Program. He said that Walmart
18 and Kroger will push the program through and force compliance
19 from producers.

20 She said that Walmart was intensely committed to
21 using the seal; that Sparboe was the only "divisive company"
22 because they were dropping out of the Certified Program. They
23 hammered on the fact that they want the logo, the Certified
24 Program logo.

25 And then she concluded: Walmart's militant